

**EX. 8**

JAMIE N. LAPRESS

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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DARCY M. BLACK,

Plaintiff,

-vs-

BUFFALO MEAT SERVICE, INC., doing business  
as BOULEVARD BLACK ANGUS, also known as  
BLACK ANGUS MEATS, also known as  
BLACK ANGUS MEATS & SEAFOOD,  
ROBERT SEIBERT,  
DIANE SEIBERT,  
KEEGAN ROBERTS,

Defendants.

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Examination Before Trial of

JAMIE N. LAPRESS, taken pursuant to the Federal Rules of  
Civil Procedure, in the law offices of GRECO TRAPP, PLLC,  
1700 Rand Building, 14 Lafayette Square, Buffalo, New York,  
taken on January 5, 2018, commencing at 9:37 A.M., before  
ERIN L. COPPING, Notary Public.

1           how often did you see him?

2   MR. OPPENHEIMER:   Form.

3   BY MS. GRECO:

4   Q.   You can answer.

5   A.   Whenever -- whenever he worked the same time I  
6       worked.

7   Q.   Now, is he working there now?

8   MR. OPPENHEIMER:   Form.

9   BY MS. GRECO:

10   Q.   You can answer.

11   A.   I believe he's still employed there.

12   Q.   Do you ever see him?

13   A.   When we both work the same time.

14   Q.   When was the last time you saw him?

15   A.   Probably -- I'm not sure.

16   Q.   Was it more than a month ago?

17   A.   It was probably less than a month ago.

18   Q.   And how many times did you see him in the past  
19       month?

20   A.   I believe he probably only worked once or twice.

21   Q.   And how about the month before that?

22   A.   Honestly, don't recall if he worked the month  
23       before that.   Like I said, he has other jobs

1 and --

2 Q. When he originally started working did he have  
3 other jobs also?

4 A. Um-hum.

5 Q. For her?

6 A. Yes.

7 Q. Okay. Do you recall any other African-American  
8 employed in the time you've been employed there?

9 A. No.

10 Q. Okay. Do you recall any Native American  
11 employees?

12 A. Completely? I don't know everyone's background  
13 there.

14 Q. No, just if you know.

15 A. Someone could be Native American and I might not  
16 even know it.

17 Q. I know. But do you know anyone who is?

18 A. No.

19 Q. Do you remember an individual by the name of Eric  
20 Seneca who worked from approximately September 5,  
21 2010 until November 27, 2010, so approximately  
22 two months?

23 A. Yes.

1 MR. OPPENHEIMER: Form.

2 BY MS. GRECO:

3 Q. Strike that. Did you ever hear her say the word  
4 bitch?

5 A. I don't recall.

6 Q. Okay. Recall means --

7 A. I'm going to say no.

8 Q. Did you ever hear her say the word bastard?

9 A. I don't recall a specific incident.

10 Q. Okay.

11 A. But --

12 Q. Do you recall anyone using foul language --

13 MR. OPPENHEIMER: Form.

14 BY MS. GRECO:

15 Q. -- while you worked at Black Angus Meat?

16 A. Probably.

17 Q. Who?

18 A. I don't recall any specific incidents, but  
19 sometimes people swear.

20 Q. Okay. Who?

21 A. Like if you stubbed your toe and -- I don't  
22 recall.

23 Q. Okay. Would you agree, then -- well, did you

1           consider anyone to have a foul mouth at Black  
2           Angus Meat while you worked there as an employee?

3   MR. OPPENHEIMER:   Form.

4   BY MS. GRECO:

5   Q.   You can answer.

6   A.   Describe foul mouth.

7   Q.   What does that mean to you?

8   MR. OPPENHEIMER:   He just asked you to describe it.

9   BY MS. GRECO:

10   Q.   Foul language, someone who curses.   I asked you  
11         language like bitch or bastard.   I could go  
12         through a list, son of a bitch, mother f'er, the  
13         word fuck.   Is that language that is used at  
14         Black Angus Meat?

15   A.   No, but I'm sure -- I can't document like what if  
16         anyone ever swore.

17   Q.   I'm talking about you.

18   MR. OPPENHEIMER:   He's not finished with his answer.

19   BY MS. GRECO:

20   Q.   I'm sorry.

21   A.   What?

22   Q.   I'm asking you in your experience.   Somebody  
23         could have said it and you didn't hear it.   I'm

1       not talking about that. I'm asking about you in  
2       your experience.

3       MR. OPPENHEIMER: His experience what?

4       BY MS. GRECO:

5       Q. Have you worked with anyone who you considered to  
6       have a foul mouth?

7       MR. OPPENHEIMER: Form.

8       BY MS. GRECO:

9       Q. Foul meaning using words such as fuck, son of a  
10      bitch, something like that, not just when they  
11      stubbed their toe?

12     A. I'd have to say no.

13     Q. Okay. Do you know what grotesque means?

14     A. Yes.

15     Q. Did you ever tell anyone that Darcy Black has a  
16      grotesque foul mouth?

17     A. I don't believe so.

18     Q. Well, take a minute and think about it. Have you  
19      ever told that to anyone?

20     MR. OPPENHEIMER: Asked and answered.

21     MS. GRECO: He said he doesn't think so. I'm giving  
22      him a chance to think about it.

23     MR. OPPENHEIMER: He already answered the question

1 Q. Tell us specifically so we know.

2 A. Regarding me not saying nigger or regarding the  
3 paper towel dispenser? I'm not sure.

4 Q. Tell me exactly what you remember you said to  
5 him, the words.

6 MR. OPPENHEIMER: Form.

7 THE WITNESS: I said basically the same thing I said  
8 to Diane.

9 BY MS. GRECO:

10 Q. Which was?

11 A. Which was I described the incident and I said I  
12 never said any of those things.

13 Q. Okay. But instead of saying I never said any of  
14 those things, tell me specifically what you told  
15 him you didn't say.

16 A. I never used the word nigger at work. I never  
17 referred to her kids as niggers.

18 Q. Anything else?

19 A. Not that I recall.

20 Q. How many conversations did you have alone with  
21 Robert Seibert regarding Darcy Black after Darcy  
22 Black was no longer employed at Black Angus Meat?

23 MR. OPPENHEIMER: Form.



1 Darcy Black was employed there?

2 A. There was never a set like they -- they trust us  
3 to take -- you know, like to not abuse breaks.  
4 Like if you want to take a break you can take a  
5 break. As long as you're working, getting your  
6 work done, they don't really question on whether  
7 you take a break or not.

8 Q. Okay. So is it fair to say that you took smoke  
9 breaks outside of your -- strike that. Did you  
10 take breaks other than smoke breaks?

11 MR. OPPENHEIMER: Form.

12 BY MS. GRECO:

13 Q. You can answer.

14 MR. OPPENHEIMER: Do you want to put a time frame on  
15 this?

16 BY MS. GRECO:

17 Q. The time Darcy Black was employed there.

18 A. I'm -- I've stopped work to eat before, you know.

19 Q. Let me ask a general question. When you started  
20 work there, did they tell you about breaks and  
21 lunch break, were you told anything -- strike  
22 that. What, if anything, were you told when you  
23 began employment at Black Angus Meat with taking

1 meal breaks or rest breaks or any type of breaks?

2 A. I was told if you want to take a lunch you have a  
3 half-hour lunch, probably a couple breaks. I  
4 don't recall the exact, but the way they -- they  
5 let you take a break if you want it as long as  
6 you're not abusing it no one will ever question  
7 whether you -- like I don't personally. I don't  
8 take a lunch, like I never sit down for like a  
9 half hour and just do nothing. Like I'll eat  
10 something real quick or I'll go have a smoke real  
11 quick like -- and that's the way I do it.

12 Q. So you have the flexibility to be able to take  
13 breaks throughout the day as you need?

14 MR. OPPENHEIMER: Form.

15 BY MS. GRECO:

16 Q. You can answer.

17 A. Yes.

18 Q. Okay. So if you were to have total time of --  
19 well, strike that. Is there any limit on the  
20 total time you can take if you added your breaks  
21 up in a day?

22 MR. OPPENHEIMER: Form.

23 BY MS. GRECO:

1 Q. Or is it just as you need them?

2 MR. OPPENHEIMER: Form.

3 BY MS. GRECO:

4 Q. You can answer.

5 A. Well, as long as it's not excessive.

6 Q. What would excessive be?

7 A. That depends on who you ask. To me excessive  
8 would be -- I don't know. I don't -- I'm not  
9 sure what you're --

10 MR. OPPENHEIMER: If you don't understand her  
11 questions make sure you tell her. Okay?

12 THE WITNESS: Okay.

13 BY MS. GRECO:

14 Q. Well, some employers say you have two breaks, two  
15 fifteen-minute breaks and a half-hour lunch if  
16 you work so many hours.

17 A. Okay.

18 Q. And I asked you what did your employer say, and  
19 you said your employer said if you want a lunch  
20 you can take a half-hour lunch, right? And you  
21 -- I asked if he say anything specifically about  
22 other breaks and you didn't give me a specific,  
23 you said you could take breaks as you need them?

1 MR. OPPENHEIMER: Form.

2 BY MS. GRECO:

3 Q. If I said anything inaccurate, correct me.

4 MR. OPPENHEIMER: His testimony is not what you just  
5 described.

6 BY MS. GRECO:

7 Q. Can you tell me specifically what you were told  
8 at Black Angus Meat regarding breaks when you  
9 were hired?

10 MR. OPPENHEIMER: Form.

11 BY MS. GRECO:

12 Q. You can answer.

13 MR. OPPENHEIMER: He did answer.

14 BY MS. GRECO:

15 Q. You can answer again.

16 MR. OPPENHEIMER: Form.

17 BY MS. GRECO:

18 Q. You can answer. He has to say I direct you not  
19 to answer. When he says that, then you stop.

20 A. Okay.

21 Q. But other than that, you can answer.

22 A. Well, I remember him saying about, you know, if  
23 you want to take a lunch break you can, or you

1 know, you get like a fifteen-minute break in the  
2 morning or in the afternoon, but they don't  
3 really -- like I never take a fifteen-minute  
4 break. Like I would take a couple five-minute  
5 breaks and they would -- they would be okay with  
6 that. They let everyone do that.

7 Q. Okay. So there was no real restriction on how  
8 you took your breaks as long as you did your  
9 work?

10 A. Yup.

11 Q. Okay. And is it fair to say that -- well, how  
12 would you time your breaks?

13 MR. OPPENHEIMER: Form.

14 BY MS. GRECO:

15 Q. Strike that. Did you take lunch breaks?

16 MR. OPPENHEIMER: Form.

17 THE WITNESS: No.

18 BY MS. GRECO:

19 Q. Okay.

20 A. I never took like a set time where I'm like all  
21 right, I'm going to sit down for fifteen minutes  
22 and not do anything.

23 Q. Okay. Did you ever -- if you were to take a

1 BY MS. GRECO:

2 Q. You can answer.

3 A. Well, no, it wouldn't be. Do you mean eight a.m.  
4 or eight p.m.?

5 Q. What were your normal hours? I mean, sometimes  
6 you would work more --

7 MR. OPPENHEIMER: Form.

8 BY MS. GRECO:

9 Q. -- in busy season, but generally what were your  
10 hours you were scheduled for?

11 MR. OPPENHEIMER: Form. When?

12 MS. GRECO: When he started at seven in the morning.

13 THE WITNESS: When I started at seven it would  
14 usually be around three or four.

15 BY MS. GRECO:

16 Q. Okay.

17 A. I didn't work that shift very long.

18 Q. How long did you work it?

19 A. Occasionally I would work it if they needed me  
20 to. I believe -- I believe I probably worked  
21 that shift for -- see, my -- I would normally  
22 work like the twelve to close shift, but that  
23 shift I worked for a little bit, but not long. I

1 don't remember the exact duration.

2 Q. Do you recall working with Darcy Black when you  
3 were on the seven o'clock shift and she was --

4 A. Occasionally. We didn't work together that  
5 often. We do different things.

6 Q. I understand. But I'm talking the same shift  
7 when you started working in December of 2001, is  
8 that true?

9 A. Yes.

10 Q. So when Ms. Black started working in 2005, do you  
11 recall at that time being at the seven o'clock in  
12 the morning, seven to three or four shift?

13 A. When Darcy started?

14 Q. Yes.

15 A. No.

16 Q. When did you go to the seven o'clock in the  
17 morning shift?

18 A. I'm not sure of the exact date.

19 Q. Did you do packing?

20 A. I have.

21 Q. When did you do packing?

22 MR. OPPENHEIMER: Form.

23 THE WITNESS: I filled -- I've never really

1 BY MS. GRECO:

2 Q. You can answer.

3 A. During that time period?

4 Q. During the time that you were supposed to arrive  
5 at seven o'clock in the morning.

6 A. I couldn't give you an exact number of how many  
7 times I was late.

8 Q. Were you late weekly, meaning at least once a  
9 week?

10 A. Yes.

11 Q. Okay. Were you late at least twice a week?

12 A. I'm not sure.

13 Q. Were you late three times in a week?

14 MR. OPPENHEIMER: Ever?

15 MS. GRECO: Nope, during that time.

16 MR. OPPENHEIMER: What time?

17 MS. GRECO: During the time he worked the seven  
18 o'clock shift. We talked about this. That's  
19 what we're talking about. Go ahead.

20 THE WITNESS: During the time when I worked at seven  
21 was I ever late more than three times?

22 BY MS. GRECO:

23 Q. Three times in a week?



1 A. I may have been.

2 Q. Okay. And was Diane Seibert aware that you were  
3 late --

4 MR. OPPENHEIMER: Form.

5 BY MS. GRECO:

6 Q. -- and having difficulty with the shift?

7 MR. OPPENHEIMER: Form.

8 BY MS. GRECO:

9 Q. You can answer. Seibert. Sorry.

10 MR. OPPENHEIMER: You're asking him?

11 MS. GRECO: If she was aware of it. If he knows she  
12 was aware of it.

13 THE WITNESS: She does the payroll, so I'm assuming  
14 she was, because I put what time I get there on  
15 my timecard.

16 BY MS. GRECO:

17 Q. So if we were to look at the timecards it would  
18 say the time you are arriving?

19 A. Um-hum.

20 Q. You've got to say yes or no.

21 A. Yes.

22 Q. And did she ever speak to you about it?

23 MR. OPPENHEIMER: What is the --

1 BY MS. GRECO:

2 Q. Okay. Say you came in late twice in a week.

3 Right? Sometimes were you twenty minutes late.

4 A. I'm not sure of the exact how late I actually  
5 was.

6 Q. Okay. Could it be ten minutes, could it be  
7 twenty minutes?

8 MR. OPPENHEIMER: Form.

9 BY MS. GRECO:

10 Q. You can answer.

11 A. Could be.

12 Q. Okay. And those instances, you would write it  
13 down on your timecard, you said, isn't that true?

14 A. Yes.

15 Q. And I asked you if you knew if Diane Seibert was  
16 aware of it, and you said it was on my timecard,  
17 right?

18 A. (Indicating yes.)

19 Q. Isn't that what you said?

20 A. Yes.

21 Q. So did you assume she was because she's the  
22 person who got the timecard?

23 A. Yes.

1 Q. Okay. Did she ever speak to you about it?

2 A. Yes.

3 Q. Okay. On how many occasions did she speak to you  
4 about it?

5 A. Well, normally Keegan would handle that, but she  
6 has several -- probably several times.

7 Q. Okay. Now, you said normally Keegan would handle  
8 it. Why would Keegan handle it?

9 A. Because he's the manager.

10 Q. Okay. And on how many occasions has Keegan spoke  
11 to you about it?

12 A. Just during that time period or in general?

13 Q. Well, okay. When you went to the twelve o'clock  
14 schedule did you have any difficulty being at  
15 work on time? If we were to look at your  
16 timecards would we find you arriving every day at  
17 twelve o'clock?

18 A. No, I'm late.

19 Q. Okay. Fine. So how often on a weekly basis  
20 would you be late for the twelve o'clock shift?

21 MR. OPPENHEIMER: Form.

22 BY MS. GRECO:

23 Q. You can answer.

1 A. I'm not sure exactly how many times it would be.

2 Q. Would it be similar to when you were late on the  
3 seven o'clock shift?

4 MR. OPPENHEIMER: Form.

5 BY MS. GRECO:

6 Q. You can answer.

7 A. Probably.

8 Q. Okay. And would you put it on your time slip so  
9 if you arrived at twelve-twenty or  
10 twelve-fifteen?

11 A. Yes, whatever time I arrived is what time I put  
12 on my timecard.

13 Q. Okay. And who do you turn your timecard into?

14 A. I put it in a slot where the timecards go.

15 Q. And who do you assume reads it?

16 A. Diane.

17 Q. Okay. Meaning Diane Seibert?

18 A. Yes.

19 Q. Okay. Now, you said that both Keegan Roberts and  
20 Diane Seibert talked to you about it?

21 A. Yes.

22 Q. Okay. On how many occasions has Keegan Roberts  
23 spoken to you about it?

1 A. Several.

2 Q. Okay. How many occasions has Diane Seibert  
3 talked to you about it?

4 A. Over the entire time of my employment?

5 Q. Yes.

6 A. Several.

7 Q. Okay. Start with Keegan Roberts. When is the  
8 first time you recall him talking to you about  
9 it?

10 A. Probably the first time I was late.

11 Q. Okay. And can you tell me what you recall from  
12 the conversation?

13 A. It's basically well, get to work on time.

14 Q. Okay. Now, when you say he talked to you several  
15 times, how many is several to you?

16 A. Over the entire course of my employment?

17 Q. Yes.

18 A. Several.

19 Q. I can't substitute --

20 A. I can't -- I can't pick a number out of a hat.

21 Q. More than five?

22 A. Yes.

23 Q. More than ten?

1 A. Yes.

2 Q. More than fifteen?

3 A. Yes.

4 Q. More than twenty?

5 A. Yes.

6 Q. More than twenty-five?

7 A. Probably, yes.

8 Q. More than thirty?

9 A. Probably, yes.

10 Q. More than thirty-five?

11 A. Probably, yes.

12 Q. More than forty?

13 A. Yes.

14 Q. More than forty-five?

15 A. Yes.

16 Q. More than fifty?

17 A. Probably, yes.

18 Q. More than fifty-five?

19 A. Yes.

20 Q. More than sixty?

21 A. Yes.

22 Q. More than sixty-five?

23 A. Probably, yes.

1 Q. More than seventy?

2 A. I'm not sure.

3 Q. Okay. All right. Do you consider this something  
4 that you've been spoken to by Keegan Roberts on a  
5 regular basis?

6 MR. OPPENHEIMER: Form.

7 BY MS. GRECO:

8 Q. You can answer.

9 A. Yes, I've been reprimanded by being late multiple  
10 times.

11 Q. Have you ever received a written warning,  
12 something in writing from them?

13 A. No.

14 Q. Okay. And on these occasions when Keegan Roberts  
15 met with you, did he reprimand you about it?

16 A. Um-hum.

17 MR. OPPENHEIMER: Form.

18 BY MS. GRECO:

19 Q. You have to answer.

20 A. Yes.

21 Q. And what did he say and what did you say as you  
22 best recall?

23 MR. OPPENHEIMER: He just testified that it was

1           probably more than seventy times.

2   BY MS. GRECO:

3   Q.   Was it a similar conversation?

4   MR. OPPENHEIMER:   Form.

5   BY MS. GRECO:

6   Q.   During those seventy -- probably seventy times,  
7       did you have similar conversations with him?

8   MR. OPPENHEIMER:   Form.

9   BY MS. GRECO:

10   Q.   You can answer.

11   A.   Yes.

12   Q.   Okay.   Can you tell me what you recall?

13   A.   Try to get to work on time, you know, be on time.

14   Q.   Do you recall anything else other than try to get  
15       to work on time and be on time that Keegan  
16       Roberts said?

17   A.   No.

18   Q.   Okay.   Now, you said you had conversations with  
19       Diane Seibert regarding not being to work on  
20       time.   Can you tell me how many conversations you  
21       had with her?

22   A.   I don't know how many conversations it was over  
23       the years.



1 Q. More than five?

2 A. Yes.

3 Q. More than ten?

4 A. Probably, yes.

5 Q. More than fifteen?

6 A. Yes.

7 Q. More than twenty?

8 A. I'm not sure.

9 Q. Okay. And were those conversations similar  
10 conversations?

11 A. Yes.

12 MR. OPPENHEIMER: Form.

13 BY MS. GRECO:

14 Q. I mean, her conversations, did she say generally  
15 the same thing during all those conversations?

16 A. Yes.

17 Q. Can you tell me what was said?

18 A. We'd like you to get to work on time.

19 Q. Did she ever tell you why she'd like you to get  
20 to work on time?

21 A. She'd like everyone to get to work on time.

22 Q. Okay. Was there any medical reason why you could  
23 not get to work on time?

1 A. No.

2 Q. Was there any reason you could not get to work on  
3 time?

4 A. A specific reason?

5 Q. Yes.

6 A. Well, there were probably times when I had car  
7 trouble or probably times when I woke up late,  
8 probably -- I mean, there -- I'm sure there's  
9 multiple reasons.

10 Q. Do you generally just have time -- a problem  
11 getting somewhere on time?

12 A. Yeah.

13 Q. Okay. Is that generally the reason you were  
14 late?

15 MR. OPPENHEIMER: I didn't hear your question.

16 BY MS. GRECO:

17 Q. Is that generally the reason you were late those  
18 times, is you have difficulty getting somewhere  
19 on time?

20 A. Yeah.

21 Q. During the time that you've worked at Black Angus  
22 Meat, have you had to work on Saturdays?

23 A. Yes.

1 Q. Okay. Do you work Saturday every week, is that  
2 one of your normal days?

3 A. Yes.

4 Q. Have you ever asked for Saturdays off?

5 A. Yes.

6 Q. Did you have any problems getting Saturdays off?

7 A. The rare times when I did ask for a Saturday off  
8 I probably got it.

9 Q. Okay. So it was nothing that strikes you as  
10 being denied the opportunity to work, to have  
11 Saturday off?

12 A. I never really -- I may have once or twice asked  
13 for a Saturday off, but I don't generally ask for  
14 that day off.

15 Q. Who was normally off on Saturdays?

16 MR. OPPENHEIMER: Form.

17 BY MS. GRECO:

18 Q. During the time Darcy Black worked at Black Angus  
19 Meat?

20 MR. OPPENHEIMER: Form.

21 BY MS. GRECO:

22 Q. So sometime 2010 to sometime --

23 A. I don't make the schedule. I don't know who was

1 off on Saturdays.

2 Q. Okay. I just meant based on your own experience  
3 was there someone routinely off on Saturdays?

4 A. I don't know.

5 MR. OPPENHEIMER: Form.

6 BY MS. GRECO:

7 Q. You don't know. Okay. Who makes the schedule?

8 A. Probably usually Diane or Keegan.

9 Q. Do you have any understanding that there was a  
10 policy at work that individuals were supposed to  
11 be there on time for work?

12 MR. OPPENHEIMER: Form.

13 THE WITNESS: Yes.

14 BY MS. GRECO:

15 Q. Were you ever threatened with termination from  
16 your job at Black Angus Meat because of your  
17 difficulties getting to work on time?

18 A. No.

19 Q. Do you think if they did threaten you with  
20 termination that you would make a better effort  
21 to get to work on time?

22 MR. OPPENHEIMER: Form.

23 MS. GRECO: You can answer.

1       you know, I guess some companies can train  
2       individuals, but some companies have training  
3       that they do to all different employees. Were  
4       you ever in a company that had training? And I'm  
5       talking about any company that you worked at,  
6       including Black Angus Meat, where they had  
7       training regarding discrimination and harassment,  
8       retaliation or hostile environment?

9       MR. OPPENHEIMER: Form.

10      BY MS. GRECO:

11      Q. You can answer.

12      A. Nothing that I recall. Nothing like specific.

13      Q. Were you ever given any written policies and  
14      procedures at Black Angus Meat?

15      A. Regarding?

16      Q. Anything.

17      A. No.

18      Q. When you started work at Black Angus Meat, were  
19      you offered any employment benefits?

20      MR. OPPENHEIMER: Form.

21      BY MS. GRECO:

22      Q. If you don't understand what that means I'll  
23      explain that to you. Do you want me to explain

1 THE WITNESS: Not really.

2 BY MS. GRECO:

3 Q. At Black Angus Meat, how would you get a pay  
4 raise?

5 MR. OPPENHEIMER: Form.

6 BY MS. GRECO:

7 Q. Do you know what I'm trying to say? Did you ever  
8 get raises at Black Angus Meat?

9 A. I have.

10 Q. Okay. How did they come about, if you know?

11 A. Not sure really.

12 Q. Would it just appear in your paycheck?

13 A. Well, I know a couple times after I learned how  
14 to do some other -- other things I got a raise.

15 Q. Okay. Did you ever just get a raise meaning --

16 MR. OPPENHEIMER: Form. Meaning what?

17 BY MS. GRECO:

18 Q. Other than the ones he's told us about when he  
19 believes he learns something new and got a raise.  
20 I'm trying to --

21 A. I may have got a cost of living raise.

22 Q. That's what I'm saying. Do you ever remember  
23 that just one day you opened your paycheck or

1           somebody told you you were going to have so many  
2           cents or whatever raise?

3   MR. OPPENHEIMER:   Form.

4   THE WITNESS:   I may have.

5   BY MS. GRECO:

6   Q.   But no one ever discussed with you why you got  
7           these raises?

8   MR. OPPENHEIMER:   Form.

9   BY MS. GRECO:

10   Q.   Just basically you decided thinking why you might  
11           have gotten them?

12   A.   Explain what you mean.

13   Q.   Did anyone ever tell you why you got a raise  
14           specifically?

15   MR. OPPENHEIMER:   Black Angus again?

16   MS. GRECO:   Yes.

17   MR. OPPENHEIMER:   Okay.

18   THE WITNESS:   I believe so.

19   BY MS. GRECO:

20   Q.   Okay.   Do you have any memory of that  
21           recollection?

22   A.   I think like when I learned how to make sausage  
23           and do a lot of processed meats I believe I got a

1           wanted steaks or wanted something cut, I was  
2           trained to cut it.

3       Q.   Okay.   Who was the meat cutter?

4       MR. OPPENHEIMER:   Form.

5       BY MS. GRECO:

6       Q.   When you say the meat cutter, you mean the  
7           butcher?

8       A.   Yeah.

9       Q.   Okay.   So during the time 2005 to 2010 we're  
10          talking about, 2005 to 2010, who was the butcher?

11      A.   I believe it would be Tommy.

12      Q.   Is that Tommy Howells?

13      A.   Yup.

14      Q.   And do you know what time he starts work?

15      A.   No, I don't.

16      Q.   When you were on seven o'clock shift was he  
17          normally there?

18      A.   I would say he was there sometimes.

19      Q.   Okay.   And when you would come in at twelve  
20          o'clock, would he still be there?

21      MR. OPPENHEIMER:   Form.

22      THE WITNESS:   Some days he would be there, some days  
23          he wouldn't be there.



1 BY MS. GRECO:

2 Q. Okay. And on the -- what I'm trying to find out  
3 is, when you said there was no butcher there, you  
4 would do the meat?

5 A. (Indicating yes.)

6 MR. OPPENHEIMER: Form.

7 BY MS. GRECO:

8 Q. So I'm trying to say when you would start your  
9 job at twelve --

10 A. But so would Mark Leible.

11 Q. When you start your job at twelve, normally Tommy  
12 Howells would be there?

13 MR. OPPENHEIMER: Form.

14 THE WITNESS: Sometimes he was.

15 BY MS. GRECO:

16 Q. Was he there sometimes when you left?

17 MR. OPPENHEIMER: Form.

18 THE WITNESS: No. He usually wasn't there when I  
19 left.

20 BY MS. GRECO:

21 Q. Okay. Generally, when would he leave during a  
22 busy time, during the first four weeks, two  
23 weeks, fifteen days of the month, when would Mr.

1           Howells leave?

2   MR. OPPENHEIMER:   Form.

3   BY MS. GRECO:

4   Q.   If you don't know, say you don't know.

5   A.   I don't know.

6   MR. OPPENHEIMER:   You've said busy time, then first  
7           few days.   That's why I'm having a form  
8           objection.

9   THE WITNESS:   I didn't handle his payroll.   I don't  
10          know.

11   BY MS. GRECO:

12   Q.   Just basing on your observation, during deer  
13          season it's very busy, would you agree with that?

14   A.   Yes.

15   Q.   During deer season --

16   A.   That's speaking of deer season.   That's -- some  
17          other of my duties were during deer season.

18   Q.   Okay.

19   A.   Like taking in deer, checking the deer to make  
20          sure they were -- they were in good enough shape  
21          to handling that.   I've skinned deer --

22   Q.   Okay.   Let's go back --

23   A.   -- stuff like that.

1           when did the time come when they attempted to  
2           train you on wrapping, if you know?

3   MR. OPPENHEIMER:   Form.

4   THE WITNESS:   I never -- I was never trained to do  
5           that.

6   BY MS. GRECO:

7   Q.   Okay.

8   A.   I just -- I don't recall.

9   Q.   Is there anything that they were trying to train  
10       you to do you had difficulty with and then didn't  
11       do anymore?

12   A.   Not that I -- not that I know of.

13   Q.   Okay.   Do you think they gave you a good  
14       opportunity by allowing you to learn these new  
15       things?

16   A.   Explain what you mean.

17   Q.   Well, when you went there you didn't know how to  
18       do any of these, right?

19   A.   Right.

20   Q.   These job duties, but as you were there they  
21       taught you one by one how to do them, right?

22   A.   Yup.

23   Q.   Okay.   And you worked hard to learn that, right?

1 A. Yup.

2 Q. Did you ever work the front counter?

3 A. No.

4 Q. Did you ever see -- did you ever -- strike that.  
5 Did you ever recommend anyone for employment at  
6 Black Angus Meat?

7 A. No.

8 Q. Did you ever see anyone other than yourself come  
9 in to Black Angus Meat looking for employment?

10 A. Yes.

11 Q. Okay.

12 A. I don't know, just --

13 Q. Was it on how many occasions?

14 A. I've -- at least once I saw someone come in and  
15 ask for an application and they were given one.

16 Q. Okay. Did -- do you remember what the person  
17 looked like?

18 A. No.

19 Q. Do you remember if they were Caucasian or  
20 African-American or --

21 A. I don't know.

22 Q. Do you know if the person was interviewed?

23 A. I don't know.

1 A. Would I consider it offensive?

2 Q. Yes.

3 A. Yeah, I wouldn't say it.

4 Q. Okay. Have you ever heard anyone say that --

5 A. I haven't, no.

6 Q. -- while at Black Angus Meat?

7 A. No.

8 Q. Would you agree with me that with reference to a  
9 black customer someone saying how come they have  
10 nice cars and get food stamps that that is  
11 offensive?

12 MR. OPPENHEIMER: Form. Just in terms of the  
13 witness' last answer when he said offensive, he  
14 said I wouldn't say it, so I guess that's the way  
15 I would like you to interpret the word offensive,  
16 that you wouldn't say it.

17 THE WITNESS: All right.

18 MR. OPPENHEIMER: Does that help?

19 BY MS. GRECO:

20 Q. Not really. Would you --

21 MR. OPPENHEIMER: That's how he understood the prior  
22 question.

23 BY MS. GRECO:

1 Q. Do you know what offensive means?

2 A. He said what he means it means.

3 Q. What does it mean to you?

4 MR. OPPENHEIMER: That he wouldn't say it, that is  
5 what he said.

6 BY MS. GRECO:

7 Q. Did you ever say the statement I said before or  
8 this statement?

9 A. The two statements you just said, no.

10 Q. And did you ever hear anyone make those  
11 statements?

12 MR. OPPENHEIMER: At Black Angus?

13 THE WITNESS: No.

14 BY MS. GRECO:

15 Q. Yes. And if they had been made, would you find  
16 them offensive?

17 MR. OPPENHEIMER: Form.

18 THE WITNESS: I would. I wouldn't say it.

19 BY MS. GRECO:

20 Q. Okay. And you wouldn't want somebody else to say  
21 it, is that fair?

22 A. Sure, yes.

23 Q. Okay. And would you ever receive -- would you

1 Q. So it's fair to say the keys can be found for the  
2 paper towel dispensers?

3 MR. OPPENHEIMER: Form.

4 BY MS. GRECO:

5 Q. You can answer.

6 A. Usually.

7 Q. Where are they kept?

8 A. They are usually hanging on a nail by the --  
9 probably by the washroom is where it usually --

10 Q. Is that the one that is in the bathroom or is  
11 that one -- is that the key for both or is it  
12 just for the one near the bathroom?

13 A. I think it --

14 MR. OPPENHEIMER: Form.

15 BY MS. GRECO:

16 Q. If you know.

17 A. At that time I think it had both keys on it.

18 Q. So how would you know which key went to which  
19 dispenser?

20 A. It would -- whichever one fit in the -- but they  
21 -- see, I'm not sure about that, because it might  
22 have been the same key. I don't really recall.

23 Q. Okay. And you said you -- I don't want to put

1 words in your mouth. On how many occasions, if  
2 at all, did you have any difficulty getting in  
3 the paper towel dispenser?

4 A. I believe it was only that one time.

5 Q. Okay. And what was the problem getting in the  
6 paper towel dispenser at that time?

7 A. I couldn't find the key.

8 Q. Okay. And what did you do to locate the key?

9 A. I looked around for it. I couldn't find it.

10 Q. Did you ask anyone for it?

11 A. I don't know. I don't think so.

12 Q. Why not?

13 A. I was just looking for the key, but I -- maybe I  
14 did ask if someone had seen it.

15 Q. Well, you said that's the one and only time you  
16 had any problem getting into it so I assume the  
17 next time you had to put paper towels in it you  
18 had the key. Is that true?

19 A. I assume so.

20 Q. Well, I'm trying to find out was it a broken  
21 paper towel dispenser or was it just -- what was  
22 it?

23 MR. OPPENHEIMER: Form.



1 A. No.

2 Q. Did you ask Thomas Howells if he knew where the  
3 key was?

4 A. I probably did, yes.

5 Q. Did you ask Debbie Negrych if she knew where the  
6 key was?

7 A. I probably asked everyone that was there. I  
8 didn't like specifically -- it was kind of like a  
9 blanket statement, like has anyone seen the key.

10 Q. Okay. What was the response?

11 A. No.

12 Q. Okay. So what did you decide to do next?

13 A. Well, I tried to figure out if I could open it  
14 without a key so I asked if anyone knew how to  
15 open the lock without a key.

16 Q. Did you --

17 A. Like if anyone --

18 Q. Go ahead.

19 A. Like if anyone could pick the lock or open it.

20 Q. And who was present when you said that?

21 A. I know Darcy was present. I'm trying to think of  
22 who else might have been right in the vicinity.

23 Q. Who was -- who did you direct that question to?

1 particular. I was asking everyone.

2 BY MS. GRECO:

3 Q. If you needed sheer -- sheer brute force who  
4 would you have asked?

5 MR. OPPENHEIMER: Form.

6 MS. GRECO: You can answer.

7 MR. OPPENHEIMER: You're asking him to guess.

8 BY MS. GRECO:

9 Q. I'm asking who he would have asked. Sometimes,  
10 you know, somebody is really physically superior  
11 to other people. Was there someone at Black  
12 Angus Meat that would fit that role?

13 MR. OPPENHEIMER: If you needed pure or sheer brute  
14 force is your question?

15 MS. GRECO: Yes.

16 MR. OPPENHEIMER: About what?

17 MS. GRECO: To break into the paper towel dispenser.

18 MR. OPPENHEIMER: Then ask that full question.

19 BY MS. GRECO:

20 Q. That's what this is about. If you needed to  
21 break into the paper towel dispenser because you  
22 had to get in there and you didn't have the key,  
23 is there someone you would ask more likely that

1           you thought would be able to assist you?

2   MR. OPPENHEIMER:   Form.

3   BY MS. GRECO:

4   Q.   And if you could have someone help you?

5   MR. OPPENHEIMER:   Asked and answered now multiple  
6           times.

7   BY MS. GRECO:

8   Q.   Go ahead.   Go ahead.

9   A.   Okay.   I didn't ask anyone to use brute force on  
10           it.   I was asking if anyone could help pick the  
11           lock.

12   Q.   Okay.

13   A.   Like --

14   Q.   Okay.

15   A.   If you use brute force on it you're just going to  
16           break it.   I could have just done that myself.

17   Q.   Okay.   That's why I'm asking the questions, to  
18           find out the answer.   All right.   So you were  
19           trying to get someone to pick the lock?

20   A.   (Indicating yes.)

21   Q.   You need to --

22   A.   Yes.

23   Q.   And have you ever -- at that point had you ever

1 A. Okay.

2 Q. Did he ever ask you to speak to Ms. Black and to  
3 apologize for any misunderstanding?

4 MR. OPPENHEIMER: Asked and answered, right?

5 BY MS. GRECO:

6 Q. He said he didn't believe so. But do you know if  
7 he or didn't?

8 A. I'm going to say no.

9 Q. And did Mr. Roberts advise you during that  
10 conversation that you should stick to weather and  
11 sports?

12 A. He didn't, not then.

13 Q. Okay. At any time did he ever advise you that  
14 your conversation -- in your conversations you  
15 should stick to weather and sports?

16 A. He -- well, Bob had said that to us before, but  
17 years before that he said he doesn't want people  
18 bringing their personal problems to work, keep --  
19 you know, keep it weather and sports.

20 Q. I'm talking about conversations that you had with  
21 Mr. Roberts.

22 A. Right after that accident?

23 Q. After the incident when you said you saw him

1       you learn that Darcy Black had not left for a  
2       better job?

3       A. I'm not sure exactly.

4       Q. Do you have any recollection at all as to how you  
5       learned it?

6       A. Someone must have said something. Someone must  
7       have. I don't really remember how I heard it.

8       Q. Okay. Now, you said a few years before that  
9       Robert Seibert had said to you or in your  
10      presence that you needed to stick to weather and  
11      sports?

12      A. He said that to everyone.

13      Q. Can you tell me when that occurred, as best as  
14      you can?

15      A. In relation to this incident or --

16      Q. Yes, time-wise.

17      A. Years before that. He'd said it multiple times,  
18      that he just wanted people to talk about weather  
19      and sports, not to talk about their personal  
20      lives.

21      Q. Okay. Do you recall him saying it -- you started  
22      in 2001. Do you recall hearing that within the  
23      first few years you worked there?

1 A. Yes.

2 Q. Okay. And do you recall hearing it before the  
3 year 2004?

4 A. Yes.

5 Q. And did he tell you why he said that at that  
6 time?

7 A. He didn't explain why he was saying it, but it  
8 makes sense, like you don't want your employees  
9 bringing drama to the workplace, just you go  
10 there to work, you have to talk, keep it light.  
11 You know what I mean?

12 Q. Okay. And so you said he said it on other  
13 occasions?

14 A. Yup.

15 Q. Okay. And when he said it the first time you  
16 remember hearing it, did he say it to a group of  
17 people or to you directly?

18 A. I believe it was a group of people.

19 Q. Okay. And I believe you said you heard this a  
20 couple times more.

21 A. Yup.

22 Q. And in those settings was he saying it to a group  
23 of people also?

1 A. Yes.

2 Q. Okay. Did he ever single you out and say it to  
3 you?

4 A. He may have. I don't know exactly.

5 Q. Okay. Did you -- how did you -- did you ever  
6 learn that Ms. Black's children were biracial,  
7 that their father was African-American?

8 A. Did I know that they were biracial?

9 Q. Yes.

10 A. Yes.

11 Q. Okay. And when did you first learn that?

12 A. When I saw them.

13 Q. Okay. And when did you first see them?

14 A. I don't know the exact date.

15 Q. And do you know the race of Raelean Rush's  
16 boyfriend?

17 A. Yes.

18 Q. And what was his race?

19 A. He was African-American.

20 Q. And do you know the race of Regina Rush's  
21 boyfriend?

22 A. No, I never saw her boyfriend.

23 Q. Okay. Did you ever hear anyone make a comment to

1 Regina Rush -- I'm sorry. Did you ever hear  
2 anyone make a comment to Raelean Rush about her  
3 boyfriend?

4 A. I didn't.

5 Q. Did you ever hear Sean Round make a comment to  
6 Raelean Rush about her boyfriend?

7 A. No.

8 Q. Did you ever hear Sean Round tell Raelean Rush  
9 that her boyfriend was using her for her name  
10 because black men always cheat and hers probably  
11 has a lot of boyfriend -- a lot of girlfriends?

12 A. I didn't hear that, no.

13 Q. Did you ever hear Sean Round tell -- Sean Round  
14 tell Raelean Rush that her boyfriend was using  
15 her for her good credit score?

16 A. I didn't, no.

17 Q. Did you ever hear Sean Round ask Raelean Rush  
18 what is wrong with the white guys?

19 A. No.

20 Q. Did you ever hear Sean Round tell Raelean -- tell  
21 Raelean Rush she needs to meet one of her own  
22 kind?

23 A. No.



1 Q. Did you ever hear Sean Round tell her she'd be  
2 better off with a white guy?

3 A. No.

4 Q. Would you -- do you think it would be  
5 inappropriate for Sean Round to tell Raelean Rush  
6 who is dating a black man that she'd be better  
7 off with a white guy?

8 A. I wouldn't say it.

9 Q. Do you think it would be inappropriate to be said  
10 in the workplace?

11 A. I would say so.

12 Q. Okay. Do you think it would be inappropriate for  
13 an employee to tell Raelean Rush that she needs  
14 to be with one of her own kind, knowing that she  
15 had an African-American boyfriend?

16 A. I don't know. I never heard that, so I don't --  
17 you're talking hypothetical.

18 MS. GRECO: Can you read the question back.

19 (Whereupon, the above-requested question was  
20 then read back by the reporter.)

21 THE WITNESS: I would say so.

22 BY MS. GRECO:

23 Q. Do you think that that comment would be racially

1           offensive?

2       A.    I would say so.

3       Q.    Do you think that it would be ever appropriate  
4           for an employee to say to Raelean Rush who has an  
5           African-American boyfriend what's wrong with a  
6           white guy?

7       A.    I would say so.

8       Q.    Would you think that would be racially offensive?

9       A.    I wouldn't say it.

10      Q.    Do you think it would be racially offensive?

11      A.    Yes.

12      Q.    Okay. Do you think it would be appropriate for  
13           an employee to say to Raelean Rush relative to  
14           her African-American boyfriend that her boyfriend  
15           was using her for her good credit score?

16      A.    I wouldn't say it, but --

17      Q.    Do you think it's inappropriate?

18      A.    I think the whole conversation would be  
19           inappropriate.

20      Q.    Is it racially offensive to be said in the  
21           workplace?

22      A.    For someone to be using someone for their credit  
23           score? That's not racial, it can --

1 Q. Telling her that her boyfriend who is  
2 African-American who is using her for her good  
3 credit store, essentially implying that he can't  
4 get it on his own?

5 A. I don't know anything about that.

6 Q. Would you find that statement to be racially  
7 offensive?

8 A. I would say so.

9 Q. Would it be inappropriate for an employee to tell  
10 Raelean Rush with an African-American boyfriend  
11 that he was using her for her names because black  
12 men always cheat and hers probably has a lot of  
13 girlfriends?

14 A. I guess.

15 Q. Do you agree that was inappropriate in the  
16 workplace?

17 A. Yeah, I wouldn't say it.

18 Q. Do you agree it's inappropriate in the workplace?

19 A. I don't know that it happened, but --

20 Q. If it did happen would that be inappropriate in  
21 the workplace?

22 A. I would say so.

23 Q. And would you find that statement to be racially

1           offensive?

2       A.   What was the statement again?

3       Q.   That her African-American boyfriend was using her  
4           for her names because Black men always cheat and  
5           hers probably has a lot of girlfriends?

6       A.   I would say -- I would say that would be  
7           offensive, yes.

8       Q.   Did you ever hear Bob Seibert tell Darcy Black  
9           that she'd have to get used to the idea that her  
10          children were black, there was no changing that?

11      A.   No, absolutely not.

12      Q.   Would that ever be appropriate to be said by a  
13          manager to an employee in a work setting?

14      A.   I wouldn't think so.

15      Q.   And would that be racially offensive?

16      A.   Yes.

17      Q.   Did Mr. Roberts ever tell you he was doing an  
18          investigation regarding Darcy Black's complaints?

19      MR. OPPENHEIMER:   Form.

20      BY MS. GRECO:

21      Q.   You can answer.

22      MR. OPPENHEIMER:   Are you asking if he used those  
23          words?

1 BY MS. GRECO:

2 Q. Yes. Did he ever say he was doing an  
3 investigation regarding Darcy Black's complaints?

4 A. No, he never said investigation.

5 MS. GRECO: Okay. Just give me five minutes.

6 (Whereupon, a short recess was then taken.)

7 BY MS. GRECO:

8 Q. Would it ever be ever appropriate for an employee  
9 to say to a female employee that she's got a nice  
10 ass?

11 A. I would say that's inappropriate.

12 Q. Would you say it was sexually offensive?

13 A. I would say so.

14 Q. Did you ever hear anyone at Black Angus Meat say  
15 to a female that she's got a nice ass?

16 A. No.

17 Q. Do you think it would be ever appropriate in the  
18 workplace for a male employee to say to a female  
19 employee, quote, unquote, your headlights are on?

20 A. No.

21 Q. And what would it mean to you, the statement your  
22 headlights are on said to a woman?

23 A. I don't understand that statement.

1 Q. Do you have any understanding that it's relating  
2 to her breasts?

3 A. No.

4 Q. No. Okay. Would it ever be appropriate for a  
5 male employee to say to a female employee oh,  
6 look at that cleavage in the workplace?

7 A. That would be inappropriate.

8 Q. And would that be sexually offensive?

9 A. I would say so.

10 Q. Would it ever be appropriate for a male employee  
11 to say to a female employee does the carpet match  
12 the drapes?

13 A. I would say so.

14 Q. It would -- would it ever be appropriate?

15 A. Oh, no, that would not be appropriate.

16 Q. And what does it mean to you does the carpet  
17 match the drapes?

18 A. I would assume -- and I don't know, I've never  
19 really heard that one, but I would assume is your  
20 the hair on the top of the head the same color as  
21 the hair on your lady parts.

22 Q. Okay. And would -- would you consider that  
23 statement if it was said to a female employee by

1 a male to be sexually offensive?

2 A. I would.

3 Q. Did Debbie Negrych ever tell you that your  
4 actions relative to the paper towel incident --  
5 paper towel holder incident with Darcy Brown were  
6 inappropriate?

7 A. No.

8 MR. OPPENHEIMER: Form.

9 BY MS. GRECO:

10 Q. Did Thoms Howells ever say to you that your  
11 actions relative to Darcy Brown and the paper  
12 towel incident were inappropriate?

13 A. No. You keep saying her name wrong too.

14 Q. I'm sorry. Black. Every time I say Brown it's  
15 Black. I'm sorry. Did you ever say to Darcy  
16 Brown in --

17 MR. OPPENHEIMER: Black.

18 BY MS. GRECO:

19 Q. Black. Black in these or similar words after the  
20 paper towel holder incident, that she'd have to  
21 get over it?

22 A. No.

23 Q. Did anyone ever tell you that Darcy Black